

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of	§	
Expanding the Economic and Innovation	§	
Opportunities of Spectrum Through	§	Docket No. 12-268
Incentive Auctions	§	
	§	

*Catalog of Eligible Expenses and Other Issues Related to the
Reimbursement of Broadcaster Channel Reassignment Costs*

COMMENTS OF LESEA BROADCASTING CORPORATION

LeSEA Broadcasting Corporation (“LeSEA”), through undersigned counsel, hereby files comments in response to the Commission’s September 23, 2013 *Request for Comments* in the above captioned matter regarding the preliminary catalog of eligible expenses and other issues related to the reimbursement of broadcast channel reassignment costs.¹

Background

LeSEA is the owner, licensee and operator of seven (7) full-power digital stations in various markets across the United States including New Orleans, Indianapolis, Hawaii and Tulsa². LeSEA has been broadcasting as an independent, religious broadcaster with no network affiliation for over 30 years. Through its stations, it provides family-oriented, religious and sports video programming. As of February 2009, LeSEA had converted all of its full-power facilities to digital operation as required by the Communications Act, expending considerable time and money in the process.

¹ DA 13-1954. Per the public notice dated October 31, 2013 (DA 13-2112), comments in this proceeding are now due on November 4, 2013.

² LeSEA is the licensee of WHME-TV, South Bend, IN; WHMB-TV, Indianapolis, IN; WHNO, New Orleans, LA; KWHB, Tulsa, OK; KWHE, Honolulu, HI; KWHM, Wailuku, HI; and KWHD, Hilo, HI.

I. The Commission should reimburse stations' relocation expenses on a dollar-for-dollar rather than estimate basis.

To the extent that the Catalog of Eligible Expenses and the Commission's September 23, 2013 public notice contemplate categories of eligible expenses, LeSEA is concerned that the Commission has elected or is very close to electing to pursue an estimated cost reimbursement method rather than an approach that reimburses licensees on a dollar-for-dollar basis. Expenses incurred by licensees in moving – sometimes for the second time in five years – to a new channel should be fully reimbursed based upon what the licensee spent, not on an estimate. While it may be easier to assign estimates of costs to various expenses and limit reimbursements to those amounts regardless of what is actually spent, this method will inevitably short change independent broadcasters like LeSEA who may not be fully compensated for monies that they must expend to fulfill a government mandated move.

Another reason broadcasters would not be fully compensated by the estimated cost reimbursement method is that the categories of expenses contemplated in the Catalog are not going to include all reasonable and legitimate expenses because there will always be legitimate expenses that are nonetheless unforeseeable. Limiting broadcasters to only those estimated costs or a finite number of hard and soft costs will further penalize them and limit their recovery of legitimate expenses.

Finally, an estimate-cost reimbursement method is problematic because the amounts designated as reasonable compensation may ultimately bear no rational relationship to the actual costs faced by broadcasters. It is very possible that prices will increase, sometimes by large margins, once orders begin to be placed due to demand and resulting supply issues. In other words, while the prices quoted now for items may seem reasonable, they may be woefully inadequate when compared to what equipment is actually selling for at the time when

broadcasters are placing orders due to the fact that many other broadcasters are making the same orders or for other market-induced reasons.

II. Broadcasters should not be required to obtain multiple bids on equipment and services that exceed a certain amount.

With a finite number of providers of goods and services to the broadcast industry, the idea of requiring broadcasters to survey multiple different firms for goods and services that might exceed a certain dollar amount is unworkable. In many cases, broadcasters have long standing relationships with certain vendors and prefer to use those vendors over other, unknown vendors even with subtle variations in price. Large, expensive purchases like antennas, transmitters, and towers are not undertaken lightly and the broadcasters incurring those expenses will make decisions based upon a whole host of factors, price being only one. To require them to get a certain number of bids in addition to the other work involved is unnecessary and overly burdensome, especially for independent or smaller broadcasters.

Moreover, it is very likely that the equipment manufacturers and service providers are going to be overwhelmed with requests for bids pushing the schedule back for actual work that much farther. In some cases, they may even begin to charge broadcasters for estimates due to the amount of time involved in preparing them without a guarantee that they will be given the contract. There is also the distinct possibility that the estimates will not in fact be near to the final amount that is expended due to unforeseen circumstances or other issues. Thus, the estimates that are obtained may not even be useful or helpful as a benchmark for reimbursement costs. There is also the question of what does the FCC expect broadcasters to do with the estimates? Broadcasters are going to choose the manufacturer or vendor that best suits their needs for the price closest to what they are willing to spend. This vendor may be the least expensive option or they may not be. The FCC should trust that broadcasters have it squarely

within their self interest to find the best offer for the best price and not make them jump through unnecessary additional steps.

The requirement to get bids is further irrelevant for independent broadcasters like LeSEA because these broadcasters do not have the leverage to secure the most advantageous pricing that the bigger, network-affiliated broadcasters can get. This would result in further price distortions that would inevitably leave independent broadcasters, who have the most to lose, at that much more of a disadvantage. Even smaller broadcasters banding together probably could still not obtain the pricing that would make a discernable difference in their bottom lines.

Conclusion

LeSEA urges the Commission to reimburse relocation costs on a dollar-for-dollar basis rather than using estimates of what the various expenses should cost. This is the fairest way to reimburse those who have to move and ensures that those who have the largest investment in the process, namely independent broadcasters without bargaining clout, will not be financially harmed in the process. LeSEA further urges the Commission not to require that broadcasters get multiple bids on goods or services due to resulting price distortions and impracticality.

Respectfully submitted,



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